

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NEW ENGLAND CARPENTERS HEALTH
BENEFITS FUND, PIRELLI ARMSTRONG
RETIREE MEDICAL BENEFITS TRUST;
TEAMSTERS HEALTH & WELFARE FUND
OF PHILADELPHIA AND VICINITY;
PHILADELPHIA FEDERATION OF
TEACHERS HEALTH AND WELFARE
FUND; DISTRICT COUNCIL 37, AFSCME -
HEALTH & SECURITY PLAN; JUNE
SWAN; MAUREEN COWIE and BERNARD
GORTER,

Plaintiffs,

v.

FIRST DATABANK, INC., a Missouri
corporation; and McKESSON
CORPORATION, a Delaware corporation,

Defendants.

C.A. No. 1:05-CV-11148-PBS

PLAINTIFFS' AMENDED MOTION FOR LEAVE TO FILE
MEMORANDUM IN EXCESS OF TWENTY PAGES

Plaintiffs hereby move this Court for leave to file a Reply Memorandum in Support of Plaintiffs' Motion for Class Certification in excess of twenty (20) pages.

In support therefore, the moving parties state as follows:

1. Local Rule 7.1(b)(4) provides that "Memorand[a] supporting or opposing allowance of motions shall not, without leave of Court, exceed twenty (20) pages." In addition to their 20-page opposition brief, Defendants filed a 17-page proffer of evidence with 45 paragraphs and 57 exhibits and a 78-page expert report of Dr. Willig with 125 paragraphs. Plaintiffs cannot respond to Defendants briefing in less than 25 pages. Plaintiffs' proposed Reply Memorandum is twenty-five (25) pages in length. It reflects days of work editing it down

to deal McKesson's objections to the class and to cut it further would not enable plaintiffs to treat the issues fairly for the Court. Further, in the context of class certification, a reply brief is often critical because when plaintiffs file their opening brief they cannot anticipate all objections a defendant may make.

2. Plaintiffs have conferred with Defendants and they object on the grounds that the Court, early in this litigation, before the issues were articulated, gave plaintiffs ten (10) pages on reply.¹

WHEREFORE, Plaintiffs respectfully request that this Court grant Plaintiffs leave to file a Reply Memorandum in Support of Plaintiffs' Motion for Class Certification in excess of twenty-five (25) pages.

DATED: March 19, 2007

By /s/ Steve W. Berman

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¹ At a status conference on February 9, 2006, the Court gave each side 20 pages on opening and then 10 on reply on a schedule that allowed 14 days and 14 days. Since then, McKesson filed an opposition that contains a 17-page proffer and a 78-page reply and a 78-page expert report. Having done so McKesson now seeks to unfairly hold plaintiffs to the 10 pages, knowing it would be impossible to do so in a meaningful fashion.

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CERTIFICATE OF SERVICE

I, Steve W. Berman, hereby certify that a true and correct copy of the above document was served on the attorney of record for each party via the Court's electronic filing system this 19th day of March, 2007.

By /s/ Steve W. Berman
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[PROPOSED] ORDER

THIS MATTER is before the Court on plaintiffs' amended motion for leave to file reply memorandum in excess of twenty (20) pages supporting plaintiffs' motion for class certification. The Court, having considered all pleadings in support and in opposition thereto, and being fully advised in the premises, hereby

GRANTS plaintiffs' reply memorandum in support of class certification of approximately twenty-five (25) pages in length.

IT IS SO ORDERED.

DATED: _____

Hon. Patti B. Saris
United States District Court Judge

CERTIFICATE OF SERVICE

I, Steve W. Berman, hereby certify that a true and correct copy of the above document was served on the attorney of record for each party via the Court's electronic filing system this 19th day of March, 2007.

By /s/ Steve W. Berman
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